



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA070042

Petitioners, Amy Kershaw and Adrien Finzi applied to the Board of Appeals for zoning relief to construct a new parking area to the left side of their dwelling at 24 Bowker Street.

On June 21, 2007, the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed August 9, 2007, at 7:00 p.m. in Hunneman Hall of the Public Library as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law.

Notice of the hearing was published July 19 and 26, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **ADRIEN FINZI and AMY KERSHAW**
Location of Premises: **24 BOWKER STREET BRKL**
Date of Hearing: **08/09/2007**
Time of Hearing: **07:00 p.m.**
Place of Hearing: **Main Library, Hunneman Hall, 2nd Fl.**

A public hearing will be held for a special permit and/or variance from:

1) For the Design of All Off-Street Parking Facilities:

6.04.5.c.1; Variance Required

6.04.5.c.2; Variance Required

6.04.12; Special Permit Required of the Zoning By-Laws to construct a new driveway and a parking space in addition to the existing driveway per plans at **24 BOWKER STREET BRKL**.

Said Premise located in a **T-5** District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing was Chair, Diane Gordon and Board members Sarah Sheldon and Lawrence Kaplan. Amy Kershaw and Adrien Finzi, are the owners of the subject property. Mr. Finzi presented the case before the Board.

Mr. Finzi stated that they had purchased the property in the spring of 2006 and until now have been concentrating on the renovation of the interior of the dwelling. He described the site as three-story home located between Toxteth and Kent Streets near Brookline Village. The cross gambrel-roofed dwelling is situated in the center of the lot with moderate front and rear yards and side yards approximately 7 to 9 feet in width. A large covered porch in front of the dwelling extends the entire width of the house. Currently, a common driveway shared with the adjacent dwelling at 30 Bowker Street exists to the right of the dwelling with parking for one car. The surrounding neighborhood is residential, largely made up of similarly-sized two-family dwellings. Several of these dwellings share common driveways or have two driveways on one lot. Mr. Finzi said that they are proposing to construct a second driveway on the left side of the dwelling to accommodate one car. Currently the dwelling has no off-street parking. Mr. Finzi said that his proposal needed front and side set-back relief.

The Chair then asked whether anyone wished to speak in favor or opposition. Isabella Callanan, of 22 Bowker Street, the immediate abutter to the left of the proposal, stated that while she supports her neighbor's proposal, she had concern regarding the actual location of the lot line separating the two properties. She stated that her engineer and Mr. Finzi's engineer are working to identify the lot line on the site. The Chair commented that according to the site plan provided by the petitioners, the proposed drive lies entirely within their property. The Chair also reassured Ms. Callanan that the Building Department would not issue a permit if the location of the driveway is in question.

Planner, Lara Curtis, then reviewed the comments and recommendations of the Planning Board. She said that the applicants have submitted a plan to construct a compact parking space in the same location but without removing a portion of the covered porch. This parking space varies from 7'-9.5'

feet wide by 18' deep with a 0.2' setback from the side lot line. The standard width of compact parking spaces listed in the Zoning By-law is 7.5 feet. Currently this dwelling unit does not have any off-street parking, though one parking space on the right side of the house is deeded to the other dwelling unit in the building. Ms Curtis outlined the relief needed as follows:

Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities: Front yard setback

Section 6.04.5.c.2 – Design of All Off-Street Parking Facilities: Side yard setback

	<u>Required/Minimum</u>	<u>Proposed</u>	<u>Finding</u>
Front Yard Setback	15 feet	0 feet	<u>Variance / Special Permit*</u>
Side Yard Setback	5 feet	0.2 feet	<u>Variance / Special Permit*</u>

*Under Section 6.04.12, the Board of Appeals may waive dimensional requirements by special permit for new parking facilities to serve existing structures and land uses.

Ms. Curtis said that the Planning Board is not opposed to this proposal to construct a second parking drive on the left side of the dwelling to provide parking for one car. The Board is generally not in favor of front yard parking, but notes there are limited alternatives for the location of a parking space on the property, due to the narrow width of the lot. The Board also notes that many other dwellings along Bowker Street have parking spaces installed in their side and front yard setbacks. She said that applicant has stated the surface of the proposed driveway will be constructed of pavers, and the plans should be modified to indicate details on the location, type, color and material of driveway pavers to be used. Therefore, the Planning Board recommends approval of the proposal and the site plan titled "Plot Plan for Proposed Curb Cut for Adrien Finzi at 24 Bowker Street in Brookline MA", prepared by Stephen DesRoche, originally dated May 1, 2007, and revised July 20, 2007, subject to the following conditions:

- 1. Prior to issuance of a building permit, a final site plan, indicating the location, type, color**

and material of driveway pavers to be used, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.

2. No vehicle may be parked in the parking area so that any portion of the vehicle overhangs onto the sidewalk.
3. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, indicating parking area materials, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair called on Frank Hitchcock representing the Building Department. Mr. Hitchcock Said that while relief is required under Sections 6.04.5.c.1 and 6.04.5.c.2 for front and side relief for parking facilities, all the relief could be given under Section 6.04.12 of the bylaw which states that dimensional requirements may be waived by special permit for new parking facilities to serve existing structures. He stated that the Building Department had no objections to the proposal, the relief required or the conditions recommended by the Planning Board.

The Chair then asked Mr. Finzi if he wished to make a closing statement and he declined.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant a Special Permit in accordance with Section 6.04.12, of the Zoning By-law and makes the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to issuance of a building permit, a final site plan, indicating the location, type, color and material of driveway pavers to be used, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. No vehicle may be parked in the parking area so that any portion of the vehicle overhangs onto the sidewalk.
3. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, indicating parking area materials, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals



Diane R. Gordon

Filing Date: August 15, 2007

A True Copy:

ATTEST



Patrick J. Ward

Clerk, Board of Appeals